

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Wyoming Intellectual Property Holdings
LLC,

Plaintiff,

v.

Trackman Incorporated,

Defendant.

No. CV-23-02518-PHX-JJT

ORDER

At issue is Defendant Trackman Inc.'s Motion to Dismiss (Doc. 14). In the Motion, Defendant points out that Plaintiff Wyoming Intellectual Property Holdings, LLC listed the wrong patent in its Complaint (Doc. 1).

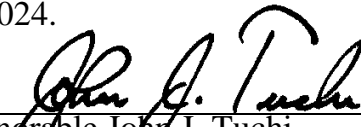
Plaintiff has now filed an Amended Complaint to correct the error. (Doc. 16.) Generally, the filing of an Amended Complaint does not relieve a plaintiff from timely responding to a motion to dismiss, which Plaintiff here did not do. Moreover, upon Defendant's notice to Plaintiff that Plaintiff listed the wrong patent in the Complaint, along with an expression of Defendant's willingness to consent to Plaintiff's amendment of the Complaint, Plaintiff refused to amend, forcing Defendant to file a Motion to Dismiss. (Doc. 15.) This defeats the very purpose of the Court's Order (Doc. 9) that parties meet and confer in good faith before a defendant files a motion to dismiss "to determine whether an amendment could cure a deficient pleading." Because Plaintiff did not participate in good faith in the meet and confer, as the Court required, and instead forced Defendant to file a Motion to Dismiss before Plaintiff corrected the error it made in the Complaint, the

1 Court will order Plaintiff to show cause why the Court should not sanction Plaintiff in the
2 amount of the reasonable costs Defendant incurred to file the Motion to Dismiss.

3 **IT IS THEREFORE ORDERED** denying Defendant's Motion to Dismiss
4 (Doc. 14) in light of Plaintiff's filing of the Amended Complaint (Doc. 16).

5 **IT IS FURTHER ORDERED** that, within 10 days of the date of this Order,
6 Plaintiff shall show cause why the Court should not sanction Plaintiff for failing to
7 participate in good faith in the meet and confer (Doc. 15), as the Court required (Doc. 9).
8 Also within 10 days of the date of this Order, Defendant shall file a statement of the
9 reasonable costs and attorneys' fees it incurred in preparing the Motion to Dismiss
10 (Doc. 14) and the requested statement itself, along with timesheets and any other relevant
11 supporting information. Upon receipt of the parties' filings, the Court will enter an Order
12 resolving whether it will sanction Plaintiff and in what amount.

13 Dated this 27th day of February, 2024.

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15 Honorable John J. Tuchi
16 United States District Judge
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